

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

MARK DEWAYNE PRICE,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-00259

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court are the plaintiff's motion to proceed in forma pauperis (Doc. No. 1) and the plaintiff's complaint alleging violations of 42 U.S.C. § 1983 (Doc. No. 2). By Standing Order entered August 1, 2006, and filed in this case on April 17, 2008, this matter was referred to United States Magistrate Mary E. Stanley. (Doc. No. 4.) Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge Stanley to submit proposed findings and recommendations concerning the disposition of this matter. (Id.) The defendant moved to dismiss the plaintiff's complaint on July 30, 2008. (Doc. No. 17.) Magistrate Judge Stanley submitted her Proposed Findings and Recommendations ("PF & R") on August 8, 2008, recommending that this court deny the defendant's motion to dismiss. (Doc. No. 19.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which


to file any objections to Magistrate Judge Stanley's PF & R. Under § 636(b), the failure of any party to file objections within the appropriate time frame constitutes a waiver of that party's right to a *de novo* review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985). Neither party has filed objections to the PF & R, and the time period for doing so has now elapsed.

Having reviewed the Proposed Findings and Recommendations filed by Magistrate Judge Stanley, the court hereby (1) **CONFIRMS AND ACCEPTS** the findings and conclusions contained therein (Doc. No. 19); (2) **DENIES** the defendant's motion to dismiss (Doc. No. 17); and (3) **REMANDS** this action to Magistrate Judge Stanley for further proceedings.

The Clerk is directed to forward copies of this Memorandum Opinion and Order to plaintiff, pro se, and to all counsel of record.

It is **SO ORDERED** this 29th day of August, 2008.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
United States District Judge